

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:08CR460
)	
v.)	
)	
JESUS PERDOMA,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the court on its own motion. Since the briefing on defendant's objection to the report and recommendation of the magistrate judge, the United States Supreme Court decided [*Arizona v. Gant*, —S. Ct.—, 2009 WL 1045962, *5 \(April 21, 2009\)](#). In that case, the Court limited the reach of the search-incident-to-arrest exception to the basic rule that searches without a warrant are *per se* unreasonable under the Fourth Amendment. *Id.* at *5. Noting that the "exception derives from interests in officer safety and evidence preservation that are typically implicated in arrest situations," the Court held that "[p]olice may search a vehicle incident to a recent occupant's arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest." *Id.* at *5, *11. The parties are requested to brief the issue of whether the holding in *Arizona v. Gant* affects the reasonableness of the search of the defendant's carry-on bag in this case. Accordingly,

IT IS ORDERED:

1. The defendant shall submit his brief on or before May 11, 2009.
2. The government shall submit its brief on or before May 18, 2009.

3. In the interest of justice, the time from today's date through May 18, 2009, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act.

DATED this 30th date of April, 2009.

BY THE COURT:

s/Joseph F. Bataillon
CHIEF DISTRICT JUDGE